

APPENDIX B:

Police Liability for Fleeing Suspect's Collision With Innocent Bystanders

Courts in the following jurisdictions have recognized a cause of action for **negligent conduct** of a high-speed chase where the pursued vehicle strikes and injures an innocent third party: Alabama, Arizona, Arkansas, Connecticut, District of Columbia, Florida, Michigan, Mississippi, Nebraska, Oregon, Pennsylvania, Tennessee, Texas, Utah, and Washington.

Alabama

Seals v. City of Columbia, 575 So.2d 1061 (Ala. 1991).

Arizona

Estate of Aten v. City of Tucson, 169 Ariz. 147, 817 P.2d 951 (Ariz. App. 1991).

Arkansas

City of Caddo Valley v. George, 2000 Ark. LEXIS 29 (Ark. 2000).

Connecticut

Tetro v. Town of Stratford, 189 Conn. 601, 458 A.2d 5 (Conn. 1983).

District of Columbia

District of Columbia v. Walker, 689 A.2d 40 (D.C. 1997).

Florida

City of Pinellas Park v. Brown, 604 So.2d 1222 (Fla. 1992).

Michigan

Rogers v. City of Ann Arbor, 457 Mich. 125, 579 N.W.2d 840 (Mich. 1998).

Mississippi

Smith v. City of West Point, 475 So.2d 816 (Miss. 1985).

Nebraska

Lee v. City of Omaha, 209 Neb. 345, 307 N.W.2d 800 (Neb. 1981).

Oregon

Lowrimore v. Dimmitt, 310 Ore. 291, 797 P.2d 1027 (Or. 1990).

Pennsylvania

Jones v. Chieffo, 549 Pa. 46, 700 A.2d 417 (Pa. 1997).

Tennessee

Haynes v. Hamilton County, 883 S.W.2d 606 (Tenn. 1994).

Texas

Travis v. City of Mesquite, 830 S.W.2d 94 (Tex. 1992).

Utah

Day v. State of Utah By & Through Utah Dep't of Public Safety, 1999 Utah 46, 980 P.2d 1171 (Utah 1999).

Washington

Mason v. Bitton, 85 Wash. 2d 321, 534 P.2d 1360 (Wash. 1975).

Other states allow recovery for such a claim only if the officer is **reckless or grossly negligent**. Colorado, Illinois, Iowa, Maryland, New York, North Carolina, and West Virginia.

Colorado

Zapp v. Kukuris, 847 P.2d 150 (Colo. Ct. App. 1992).

Illinois

Breck v. Cortez, 141 Ill.App.3d 351, 490 N.E.2d 88 (Ill. App. Ct. 1986).

Iowa

Morris v. Leaf, 534 N.W.2d 388 (Iowa 1995).

Maryland

Boyer v. State, 323 Md. 558, 594 A.2d 121 (Md. 1991).

New York

Saarinen v. Kerr, 84 N.Y.2d 494, 644 N.E.2d 988 (1994).

North Carolina

Bullins v. Schmidt, 322 N.C. 580, 369 S.E.2d 601 (N.C. 1988).

West Virginia

Peak v. Ratliff, 185 W.Va. 548, 408 S.E.2d 300 (W.Va. 1991).

A few states have **specifically legislated** the standard for such claims: California and Georgia.

California

Cal. Vehicle Code §17004 (immunity for law enforcement officer from liability for emergency calls or pursuits); §17004.7. (immunity for agency with vehicular pursuit policy complying minimum standards).

Georgia

Ga. Code Ann. §40-6-6(d) (reckless disregard); *Pearson v. City of Atlanta*, 231 Ga. App. 96, 499 S.E.2d 89 (Ga. Ct. App. 1998).

Only a few states that have addressed the issue have **declined to recognize liability** for a such a claim: Kansas, Kentucky, Minnesota, Missouri, New Jersey, Ohio, Oklahoma, Wisconsin, and Wyoming.

Kansas

Thornton v. Shore, 233 Kan. 737, 666 P.2d 655 (Kan. 1983)(no duty owed to third parties

injured in collisions with fleeing suspects).

Kentucky

Chambers v. Ideal Pure Milk Co., 245 S.W.2d 589 (Ky. Ct. App. 1952)(pursuing officers not liable for results of fleeing suspect's negligent speed).

Minnesota

Pletan v. Gaines, 494 N.W.2d 38 (Minn. 1992)(official immunity protects officer's decision to initiate or continue pursuit).

Missouri

Oberkramer v. City of Ellisville, 706 S.W.2d 440 (Mo. 1986)(allegations of negligence on part of pursuing officers must be specific enough to state claim); *Stanley v. City of Independence*, 995 S.W.2d 485 (1999)(question of whether officer's negligence was proximate cause of third parties injuries in collision with fleeing suspect is decided on facts of each case).

New Jersey

Tice v. Cramer, 133 N.J. 347, 627 A.2d 1090 (N.J. 1993)(pursuing officers protected by absolute immunity absent willful misconduct).

Ohio

Lewis v. Bland, 75 Ohio App.3d 453, 599 N.E.2d 814 (Ohio Ct. App. 1991)(pursuit not proximate cause of third parties injuries sustained in collision with fleeing suspect absent willful or wanton misconduct).

Oklahoma

Kelly v. City of Tulsa, 791 P.2d 826 (Okla. App. 1990)(pursuit of fleeing suspect not proximate cause unless extreme or outrageous conduct).

Wisconsin

Estate of Cavanaugh v. Andrade, 202 Wisc.2d 290, 550 N.W.2d 103 (Wisc. 1996)(official immunity protects officer's decision to initiate and continue pursuit).

Wyoming

DeWald v. State, 719 P.2d 643 (Wyo. 1986)(pursuit of fleeing suspect not proximate cause unless extreme or outrageous conduct).

States not specifically researched (and not appearing in *Haynes/Day*/law review article lists):

Hawaii**Idaho****Indiana****Louisiana****Maine****Massachusetts****Montana****Nevada****New Hampshire****New Mexico****Rhode Island**

South Carolina
South Dakota

States whose decisions cited in various lists or found in my own research do not involve pure “third party injured in collision with fleeing suspect” fact pattern:

Alaska

Hildebrandt V. City of Fairbanks, 863 P.2d 240 (Ala. 1993)(3rd party injured in collision with police vehicle in pursuit of fleeing suspect).

Delaware

Garden v. Sutton, 683 A.2d 1041 (Del. 1996)(3rd party struck police vehicle positioned to intercept fleeing suspect).

North Dakota

Jones v. Ahlberg, 489 N.W.2d 576 (N.D. 1992)(passenger in fleeing vehicle killed when vehicle collided with pursuing police car and rolled into ditch)

Virginia

Colby v. Boyden, 400 S.E.2d 184 (Va. 1991)(3rd party struck by police officer in pursuit).

Vermont

Morais v. Yee, 162 Vt. 366, 648 A.2d 405 (Vt. 1994)(fleeing suspect killed when lost control of motorcycle and crashed during pursuit)